

Verne, B. Michael

801.10(d)

From: [REDACTED]  
Sent: Monday, February 05, 2007 11:53 AM  
To: Verne, B. Michael  
Cc: [REDACTED]  
Subject: HSR Advice

Dear Mike - A few weeks ago, we discussed the following fact pattern and you advised me that the acquisition of the remaining 50% interest in Company C would not require premerger notification, assuming that the total value of Company C would be less than \$56.7 million.

FACT PATTERN DISCUSSED - Previously, Company A purchased Company B for approximately \$150 million. Company B holds minority partnership interests in a series of project companies that own power plants. Company B also holds a 50% partnership interest in Company C which owns a power facility in Guam. The value of the 50% interest of Company C at that time of the acquisition was approximately \$13 million.

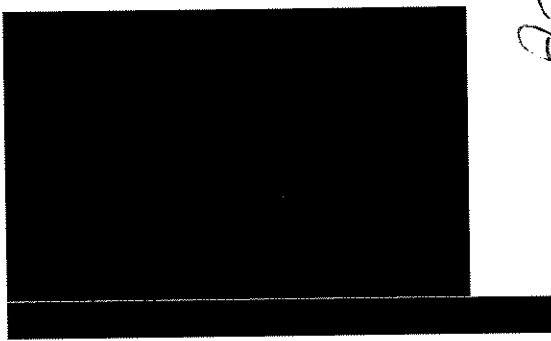
No HSR filing was made in connection with the above referenced transaction because the acquisition of all of the minority owned project companies were considered exempt and the value of the one 50% interest - which would be considered non exempt, was less than \$56.7 million.

Subsequently, Company A contracted to acquire the remaining 50% interest in Company C. I was told that the current total value of Company C will be less than \$56.7 million, and you agreed that under the circumstances, no filing was necessary.

NEW FACTS - I just learned that there is a large loan facility outstanding that would need to be repaid in addition to paying for the project. The transaction is structured as the acquisition of membership interests. Does that change the analysis?

\*\*\*\*One other (somewhat unrelated) question - Do you need to fill out item 6 if you are the acquired person and only membership interests are being acquired?

Thanks Mike.



THE LOW PAYOFF DOES NOT CHANGE THE ANALYSIS IN AN ACQUISITION OF NON-CORPORATE INTERESTS. ITEM 6 IS REQUIRED BECAUSE IT IS NOT AN ASSET ACQUISITION.

B. Michael  
2/5/07

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IRS Circular 230 disclosure: